



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2011 Biennium

Bill #	SB0183	Title:	Revise wolf policy
Primary Sponsor:	Balyeat, Joe	Status:	As Amended

- | | | |
|---|---|--|
| <input type="checkbox"/> Significant Local Gov Impact | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
Expenditures:					
General Fund	\$5,099	\$669,018	\$649,939	\$654,275	\$658,330
State Special Revenue	\$0	\$889,326	\$813,065	\$813,065	\$813,065
Federal Special Revenue	\$0	(\$823,604)	(\$823,604)	(\$823,604)	(\$823,604)
Revenue:					
General Fund	\$0	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	(\$823,604)	(\$823,604)	(\$823,604)	(\$823,604)
Net Impact-General Fund Balance	<u>(\$5,099)</u>	<u>(\$669,018)</u>	<u>(\$649,939)</u>	<u>(\$654,275)</u>	<u>(\$658,330)</u>

Description of fiscal impact:

SB183 revises the state wolf policy and the costs shown in this fiscal note are a result of the impact to the Departments of Fish, Wildlife and Parks (FWP), Justice (DOJ), and Livestock (DOL).

SB 183, as amended, revises the state wolf policy and will result in costs of approximately \$1 million in state special revenue to develop and manage a new wolf management policy. The Department of Justice (DOJ) will require a new FTE and operating costs, the Department of Livestock will require the \$110,000 for investigative work that FWP loses by not being able to contract with USDA/WS. This agreement included \$110,000 for the investigation and control work that has benefited the Department of Livestock Loss Reduction & Mitigation (LLRMB) program by identifying losses to livestock caused by wolves. In order to meet its statutory obligation in 2-15-3112, MCA, the cost for investigation and control would now have to be borne by the Department of Livestock LLRMB program. The LLRMB operational program is general fund.

FISCAL ANALYSIS

Assumptions:

Department of Justice (DOJ)

1. Four challenges to the constitutionality of the bill will be filed in the Montana federal district court, and will require defense by the Attorney General's Office (AGO), at trial and on appeal, until all opportunities for appeal are exhausted.
2. It is assumed these challenges will be resolved favorably to the state. However, if the challenges are upheld, the fiscal impact to the AGO would total \$20,396 of which \$14,396 is personal services and \$6,000 is operating costs associated with defending the four constitutional challenges on summary judgments through all appeals.
3. It is assumed the appeals would start in FY 2009 and be completed in FY 2010. Therefore, the total cost in FY 2009 would be \$3,599 in personal services [$\$14,396 \times 0.25 \text{ year} = \$3,599$] and \$1,500 in operating [$\$6,000 \times 0.25 \text{ year} = \$1,500$]. The total cost in FY 2010 would be \$10,797 in personal services [$\$14,396 \times 0.75 \text{ year} = \$10,797$] and \$4,500 in operating [$\$6,000 \times 0.75 = \$4,500$].
4. Based on information from FWP, in the past two years there have been more than 80 verified reports of wolf depredation against livestock or domesticated animals such as cats and dogs, and no reports of wolves causing personal injury to human beings.
5. SB 183 requires the Attorney General to file and litigate four lawsuits per year, all of which contain allegations of injury to livestock and none of which contain allegations of personal injuries to human beings, each aggregating all of the various claims that have accrued during that quarter, to meet the 90-day requirement for filing the cases.
6. The fiscal impact for these quarterly lawsuits would necessitate the hiring of 1.00 FTE attorney and 1.00 FTE paralegal by July 1, 2009, plus \$40,000 in travel expenses for trips to the out-of-state location of the court of federal claims [$5 \text{ trips} \times 4 \text{ cases} \times \$2,000/\text{trip} = \$40,000$] each year through the 2013 biennium.
7. Estimated personal services cost would be \$127,869 in FY 2010, \$129,071 in FY 2011, \$133,185 in FY 2012, and \$137,013 in FY 2013.
8. It is assumed that the operating costs for the 2.00 additional FTE for FY 2010 would total \$13,852, FY 2011 operating would total \$8,868, FY 2012 operating would total \$9,090, and FY 2013 operating would total \$9,317.
9. Expert witnesses would be required in the litigation process to determine economic losses. Expert valuation witness costs totaling \$46,000 would consist of valuation of livestock [2 hours of investigation and calculation time and drafting of expert witness reports * \$75 per hour * 80 claims = \$12,000], deposition and trial testimony [60 hours * \$75 per hour * 4 trials = \$18,000], and travel costs for expert depositions and testimony would be \$16,000 [$\$2,000 \times 2 \text{ trips per case} \times 4 \text{ trials per year} = \$16,000$] per year.
10. Expert witnesses would be required in the litigation process to determine lost profits and business opportunities. Expert valuation witness costs by a forensic accountant would total \$258,000 which includes investigation and drafting of expert witness report [20 hours per claim * \$125 per hour * 80 claims per year = \$200,000], deposition and trial testimony [60 hours * \$175 per hour * 4 trials = \$42,000], and travel costs for expert depositions and testimony would be \$16,000 [$\$2,000 \times 2 \text{ trips per case} \times 4 \text{ trials per year} = \$16,000$] per year.
11. Miscellaneous filing fees and other costs would be \$8,000 each year through the 2013 biennium [$\$100 \times 80 \text{ cases} = \$8,000$].
12. It is assumed objections to the jurisdiction of court of federal claims will be overruled. In the alternative, objections to the jurisdiction of the court of federal claims will be sustained.
13. It is assumed that no law enforcement personnel from the Department of Justice will be involved in issuing a citation or arresting a person for taking a wolf or possessing a wolf carcass or any parts of a

wolf, as described in Section 11 of SB 183, during any period that the presence of wolves in Montana is not in compliance with the Montana wolf management policy expressed in this bill. Therefore, the department will not be subject to the assessment of any fines for violation of this section.

14. It is assumed that the Attorney General will not fail to file and pursue any claims within 90 days of the effective date of section 15 of the bill, and the state will not be held responsible for any costs or attorney fees incurred by any resident or organization of Montana that may file a claim on behalf of the citizens of Montana as stated in section 15(4) of the bill.
15. Section 12 of this amended legislation requires DOJ to reimburse reasonable costs and attorney fees to any Montana resident accused by the federal government of illegally taking a wolf. Costs are estimated at \$50,000 (average of \$10,000 per case and 5 cases annually) each fiscal year.

Legislative Branch

16. Only section 14 applies to the Legislative Audit Division.
17. Section 7 is an impairment of auditor independence of the presiding officer of the Legislative Audit
18. Separate reasonableness testing will occur for each population including but not limited to numbers of wolves, wolf packs, and game animals in Montana, hunter success numbers, and numbers of livestock animals killed or injured by wolves.
19. Game animals include moose, sheep, goat, white-tailed deer, mule deer, elk, antelope, black bear, and mountain lions.
20. Work required in section 14 will occur prior to each potential cooperative agreement.
21. Work required in section 14 will commence upon receiving notification of a potential cooperative agreement between the state or any agency of the state and the United States or any agency of the United States for the conservation and management of the gray wolf in Montana.
22. Determination of reasonableness in section 14 includes count methodology for each population.
23. Surveys require the assistance and time of Department of Fish, Wildlife, and Parks and Department of Livestock personnel.
24. Because of the noncyclical and possibly nonrecurring nature of the audit work, existing audit staff will be used. No new FTE will be requested.
25. A 2002 Legislative Audit Division performance audit of big game count methodologies took 1,200 hours to complete.
26. The audit schedule would need to be reprioritized.
27. The audit work would take 2,000 hours from the time the audit work begins.

Department of Livestock (DOL)

28. Section 6 of the bill voids all Fish, Wildlife and Parks Cooperative Agreements with USDA/Wildlife Services for the conservation and management of the gray wolf in Montana.
29. Section 25 repeals 87-5-131, MCA, which places the protection of livestock from wolf losses in the Department of Livestock.
30. The agreement between FWP and USDA/WS has included \$110,000 for investigative work on wolf losses to livestock that will not longer be borne by FWP.
31. It is assumed that the Department of Livestock will have to incur these costs in order to meet the provisions of the Livestock Loss Reduction and Mitigation Board LLRMB program established by the 60th Legislature.
32. The operations of LLRMB is funded with general fund.
33. It is assumed this cost would transfer to the general fund.

Department of Fish, Wildlife and Parks (FWP)

34. Currently, Montana's wolf management plan is funded through an agreement between FWP and the US Fish & Wildlife Service. This agreement will be voided and the federal funds in the amount of \$823,604 will be lost. [Section 6 of SB 183] With loss of this federal revenue, expenditures will be reduced by \$337,678 in personal services and \$485,926 in operations costs.

35. FWP will no longer pay \$110,000 to the federal Wildlife Services agency for assistance with wolf management and control. Expenditures will be reduced by \$110,000 in operations costs with general license fees.
36. To comply with this legislation, FWP will need to develop a new Wolf Management Plan. This will require increased expenditures for 1.00 FTE at \$51,261 and \$25,000 of operations for one year.
37. To implement the new Wolf Management Plan and meet the statutory criteria, FWP will need to increase expenditures for the following FTE and operations for staff to manage the wolf program:
 - 1.00 FTE for a Wildlife Biologist \$61,524
 - 7.00 FTE for Conservation Techs 5 \$266,782
 - 1.00 FTE for Conservation Techs 4 \$29,270
 - Operations of \$565,500
38. To meet the requirements of Section 13 of SB 183, FWP assumes that no federal money will be available until it is in complete compliance with the new Wolf Management Plan. All costs are funded with state sources for this fiscal analysis.
39. FWP assumes the legislative auditor will determine that current methodologies and procedures used by the agency will result in reasonable numbers; no additional efforts will be required by FWP to comply with Section 14.
40. FWP assumes this bill will be effective immediately. As of now, New Section 27(1)(a) is in effect.

Fiscal Note Request – As Amended

(continued)

	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>	<u>FY 2012 Difference</u>	<u>FY 2013 Difference</u>
<u>Fiscal Impact:</u>					
Dept.of Fish, Wildlife and Parks					
FTE	0.00	10.00	9.00	9.00	9.00
<u>Expenditures:</u>					
Personal Services	\$0	\$71,148	\$19,887	\$19,887	\$19,887
Operating Expenses	\$0	(\$5,426)	(\$30,426)	(\$30,426)	(\$30,426)
TOTAL Expenditures	\$0	\$65,722	(\$10,539)	(\$10,539)	(\$10,539)
<u>Funding of Expenditures:</u>					
General Fund (01)	\$0	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$889,326	\$813,065	\$813,065	\$813,065
Federal Special Revenue (03)	\$0	(\$823,604)	(\$823,604)	(\$823,604)	(\$823,604)
TOTAL Funding of Exp.	\$0	\$65,722	(\$10,539)	(\$10,539)	(\$10,539)
<u>Revenues:</u>					
General Fund (01)	\$0	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	(\$823,604)	(\$823,604)	(\$823,604)	(\$823,604)
TOTAL Revenues	\$0	(\$823,604)	(\$823,604)	(\$823,604)	(\$823,604)
Department of Justice					
FTE	0.00	2.00	2.00	2.00	2.00
<u>Expenditures:</u>					
Personal Services	\$3,599	\$138,666	\$129,071	\$133,185	\$137,013
Operating Expenses	\$1,500	\$420,352	\$410,868	\$411,090	\$411,317
TOTAL Expenditures	\$5,099	\$559,018	\$539,939	\$544,275	\$548,330
<u>Funding of Expenditures:</u>					
General Fund	\$5,099	\$559,018	\$539,939	\$544,275	\$548,330
<u>Revenues:</u>					
General Fund (01)	\$0	\$0	\$0	\$0	\$0
Department of Livestock					
<u>Expenditures:</u>					
Operating Expenses	\$0	\$110,000	\$110,000	\$110,000	\$110,000
<u>Funding of Expenditures:</u>					
General Fund (01)	\$0	\$110,000	\$110,000	\$110,000	\$110,000
<u>Revenues:</u>					
General Fund (01)	\$0	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>					
General Fund (01)	(\$5,099)	(\$669,018)	(\$649,939)	(\$654,275)	(\$658,330)
State Special Revenue (02)	\$0	(\$889,326)	(\$813,065)	(\$813,065)	(\$813,065)
Federal Special Revenue (03)	\$0	\$0	\$0	\$0	\$0

Technical Notes:**Department of Justice**

1. It is not possible to predict the occurrence or value of any claims made by the Attorney General against the United States for damages resulting from wolf predation. Therefore, revenue estimates from settlements or successful proceedings against the United State for all damages incurred as a result of the four conditions listed in Section 15(1) of the bill can not be calculated for purposes of this fiscal note. In addition, data to support the monetary value for all damages incurred since January 11, 2001, is not available and revenues from reimbursements for damages incurred in the past can not be calculated for purposes of this fiscal note.

Sponsor's Initials

Date

Budget Director's Initials

Date